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10/685,587	10/16/2003	Sei-no-suke Mizuno	GOT-0018	5135

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EXAMINER	
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BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Application Number: 10/685,587
Filing Date: October 16, 2003
Appellant(s): MIZUNO, SEI-NO-SUKE

David Nikaido
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed November 1, 2005 appealing from the Office action mailed June 3, 2005. This action vacates the Examiner's Answer mailed on November 15, 2005.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

4,403,004	PARKER et al	9-1983
5,494,745	VANDER VELDEN et al	2-1996
4,183,975	SIDDERS	1-1980

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

1. Claims 1-3, 5, and 6 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Parker et al (US 4,403,004) in view of Vander Velden et al (US 5,494,745).

Parker teaches a decorative metallized laminate comprising an outer capping layer (herein relied upon to read on the claimed "transparent resin surface layer") adhesively bonded to a metallized surface (abstract). Said metallized layer is applied by vapor deposition to a thickness of 100-200 angstroms (col 4, lines 58+) and is herein relied upon to read on the claimed "metal vapor deposition layer." Furthermore, the thickness of the metallized layer taught in Parker is herein understood to be taught with sufficient specificity to read on the thickness range of claim 3. The metallized layer is applied to a base layer (herein relied upon to read on the claimed "substrate"). The base layer may comprise an amorphous polyester (col 2, lines 60+), such as polyethylene terephthalate. Furthermore, the substrate taught in Parker is understood to be "highly flexible" because it comprises the same material as applicant's base resin

(see page 4, lines 2+ of the specification) and because Parker teaches said resin should not be rigid (col 4, line 50). A backing layer may be bonded to the surface of the substrate opposite the capping layer (col 8, lines 39+ and FIG 1) by conventional laminating techniques. Said backing layer is herein understood to read on the claimed "backing material." The laminate is thermo-formable and may be applied to an underlying body in such applications as bumpers for automobiles (col 9, lines 3+ and Fig 4).

Said laminate is herein understood to inherently be sparkling and exhibit the claimed hue angle when measuring the color of said transparent resin surface layer because the laminate taught in Parker comprises the same resin surface layer and the same metal layer comprising the same metal and having the same thickness as the claimed laminate.

Parker teaches said backing layer is bonded to the substrate by conventional laminating techniques (col 8, lines 39+) but does not teach that said layers should be adhesively bonded. However, Vander Velden teaches that conventional laminating techniques include adhesive lamination (col 5, lines 41+). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to adhesively bond the backing layer of the laminate taught in Parker to the substrate. The motivation for doing so is that adhesives are conventionally utilized in the art to laminate layers together in order to obtain adequate interlayer adhesion.

2. Claim 4 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Parker et al (US 4,403,004) in view of Vander Velden et al (US 5,4394,745), as applied to claims 1-3, 5 and 6 above, and further in view of Sidders (US 4,183,975).

Parker in view of Vander Velden is relied upon as above. Specifically, Parker teaches that an ultra-violet resistant capping layer should be applied over the metallized layer of the laminate taught therein. Parker does not teach that the capping layer should comprise urethane-based resin. However, Sidders teaches a vacuum metallized laminate comprising a laminate, a metallized layer, and a topcoat layer (col 6, lines 5+). The topcoat layer provides the laminate with UV radiation resistance, wear resistance, abrasion resistance, and corrosion resistance (col 6, liens 26+). Said layer may comprise a urethane-based resin (claim 6). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize the urethane-based resin topcoat layer taught in Sidders as the capping layer of the laminate taught in Parker. The motivation for doing so would have been that said urethane-based resin provides the laminate with the required thermoformability and UV resistance while additionally providing abrasion resistance, oxidation resistance, and wear resistance.

(10) Response to Argument

Appellant's arguments have been fully considered but they are not persuasive.

Appellant argues the combination of Parker and Vander Velden fails to teach or suggest, "a backing material integrally bonded to a back surface of said substrate through an adhesive layer." Specifically, Parker teaches a metallized laminate comprising a base layer surface coated on both sides with vapor deposited metal

layers. Appellant argues by coating both surfaces of the base layer with vapor deposited metal layers, Parker's laminate cannot comprise a backing material "integrally bonded" to a back surface of said substrate through an adhesive layer. The examiner respectfully disagrees. The claim limitation "integrally bonded" does not exclude the possibility of layers intervening between the substrate and the adhesive layer and/or the adhesive layer and the backing material. Appellant argues the definition of "integral" supports the conclusion that said limitation should be interpreted to exclude the presence of layers intervening between the substrate and the adhesive layer. The examiner respectfully disagrees. "Integrally" has been defined as "essential to completeness," "composed of integral parts" or "lacking nothing essential." The examiner maintains the position that the applied art meets all three definitions. Specifically, the laminate of Parker "lacks nothing essential," is composed of the claimed "integral parts," and comprises all claimed elements that are "essential to completeness." Thus, appellant's arguments are not commensurate in scope with the claim and are not persuasive for overcoming the rejection.

Appellant argues the specification is consistent with Appellant's proposed interpretation of the limitation "integrally bonded." Specifically, Appellant argues the description of Figure 1 on page 3, lines 29+ of the specification supports the proposed interpretation of "integrally bonded" because the description notes the backing layer is integrally bonded to the back surface of the substrate and the no intervening layers are depicted in the figure. Said argument is noted. However, the description of the figure fails to define "integrally bonded." Furthermore, case law supports the position that

claimed phrase should be given its broadest reasonable interpretation consistent with the state of the art and original disclosure of the application. There is no disclosure in the specification, including the description of Figure 1, that suggests "integrally bonded" should be interpreted to exclude intervening layers between the substrate and the adhesively attached backing layer. Furthermore, the state of the art does not suggest "integrally bonded" should be interpreted to exclude intervening layers between the substrate and the adhesively attached backing layer.

(11) Related Proceeding(s) Appendix

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Kevin R. Kruer
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